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% 01.11.2007

Present : Mr.Sanjit Sharma, counsel for the petitioner.
Mr.Ajay Arora and Mr.Kapil Dutta, counsel for the respondent.
Mr.Karan Singh, Halka Patwari.

\+ CM(M) No.967/2007 and CM NO. 9758/2007
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Mr.Karan Singh, Halka Patwari, who is present in person, submits that the premises in question falls in Khasra No. 388 and that he has given this report previously as well. He has also produced in Court the relevant records, which are seen and returned. A copy of the same is taken on record.

Under the circumstances, the MCD is hereby restrained from demolishing or interfering with the possession of the petitioner as the department has failed to prove that they are the owners of Khasra No. 388.

The petition and application are disposed of accordingly.

November 01, 2007
dc

J.M. MALIK, J.

- From RP 385/08 U/s.114 r/w .S.151 CPC.
- From CM 15645/08 & 15646/08 U/s. 5 Limitation Act
- From CM 15647/08 for exemption..

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02 (Spl. Bench)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **R.A. No. 385/2008 in C.M. (M) 967/2007**

United Sports Traders Delhi P. Ltd. ..... Petitioner
Through: Mr. Sanjiv Sharma, Adv.

versus

MCD ..... Respondent
Through: Mr. Ajay Arora and
Mr. Kapil Dutta, Advs.

CORAM:
JUSTICE SHIV NARAYAN DHINGRA

ORDER

% **24.07.2009**

This application has been made for review of the order dated 1st November, 2007. It is submitted by the learned counsel for the applicant that this Court asked Mr. Karan Singh, Halka Patwari to appear in the court and he produced a copy of the report which stated that the property, in question, falls in Khasra No. 388. On this basis the Court restrained MCD from demolishing or interfering with the possession of the petitioner.

There is no gain saying that the petition was filed by the petitioner in this Court against an order whereby an application under Order 39 Rule 1 & 2 CPC made by the petitioner was dismissed. The main suit is still pending before the Trial Court and it seems that the language of the order is being construed

as if this court has already decided the matter as to in which Khasra number, the property in question falls. It is made clear that the observations made by the Court are only prima facie in nature and the dispute regarding the location of the property or in which Khasra number the property in question falls has to be decided by the Trial Court on merits, after taking into account the entire evidence placed before him by both the parties.

It is also stated by the learned counsel for the MCD that in the garb of this order, the petitioner has made additional construction. This fact is denied by the respondent /non-applicant. However, MCD is always at liberty to act in respect of unauthorized/illegal constructions carried out, in accordance with law.

The review application is disposed of in terms of above order.

SHIV NARAYAN DHINGRA,J

JULY 24, 2009
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